

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PETER NOONAN,

Plaintiff,

v.

BANK OF AMERICA CORPORATION,
et al.,

Defendants.

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CIVIL ACTION NO. 4:12-3051


ORDER OF REMAND

Pending is an unverified application for Temporary Restraining Order (TRO) by pro se Plaintiff Peter Noonan (Document No. 1). Oddly, Plaintiff alleges that he is removing his own case from state court, where he filed it March 5, 2012, based on his assertion that there is complete diversity of citizenship. A plaintiff may not remove his own case to federal court. Title 28 U.S.C. § 1441 states that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States" 28 U.S.C. § 1441(a); see also Shamrock Oil & Gas Corp. v. Sheets, 61 S. Ct. 868, 872 (1941); Scott v. Commc'ns Serv., Inc., 762 F. Supp. 147, 149 (S.D. Tex. 1991), *aff'd* 961 F.2d 1571 (5th Cir. 1992) ("Only the defendant can remove a case."). Accordingly, this case must be remanded to state court. It is therefore

ORDERED that this case is REMANDED to the 234th Judicial District Court of Harris County, Texas.

The Clerk will mail a certified copy of this Order to the Clerk of the 234th Judicial District Court of Harris County, Texas, as required by 28 U.S.C. § 1447, and shall notify all parties and provide them with a true copy of this Order.

SIGNED at Houston, Texas, on this 12TH day of October, 2012.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE